

EXHIBIT 2

Sept. 3, 2024 ELECT and DMV Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES
AND THE VIRGINIA DEPARTMENT OF ELECTIONS**

This Memorandum of Understanding (MOU) is made and entered into by and between the Virginia Department of Motor Vehicles ("DMV") and the Virginia Department of Elections ("ELECTIONS"). The MOU effective date is established by the date of execution.

**Article 1
Introduction and Purpose**

The primary purpose of this MOU is to establish the terms and conditions under which, pursuant to Code of Virginia §§ 24.2-410.1, 24.2-411.3, 46.2-208(B)(9), 46.2-208.1, and 46.2-328.1, and Executive Orders Number Thirty-One (2024) and Number Thirty-Five (2024), DMV will provide certain data and electronic access to data to ELECTIONS, which requires this data in the conduct of its official duties under Title 24.2 of the Code of Virginia, and the terms and conditions under which ELECTIONS will receive, use, and protect the data provided to it by DMV. This MOU will cover the following five data transfers:

- A. Data Extraction File Transfers
- B. Data Transferred Pursuant to the National Voter Registration Act
- C. ELECTIONS Access to relevant DMV Information Systems
- D. Digital Signature Service
- E. VERIS verification against DMV records

**Article 2
General Provisions**

2.1 Term. This MOU will commence upon the execution by both parties and will continue in effect until modified, amended, or terminated.

2.2 Termination. Either party may terminate this MOU at any time for any reason. Notwithstanding the foregoing, the parties agree that, to the extent reasonable, 30 days' notice of intent to terminate this MOU will be provided to the other party.

2.3 Review and Modification of MOU. This MOU may be modified or amended as necessary upon the mutual written agreement signed and dated by both parties. All modifications and amendments shall be incorporated and made a part of the MOU as if attached hereto. This MOU supersedes and replaces the MOU entered into by the Parties on March 15, 2021.

2.4 Relationship of the Parties. The parties shall meet and confer within 10 business days of a request of either party to address issues arising under this MOU.

2.5 Party Contacts. The parties identify the following individuals as their points of contact for operational, administrative, and/or performance questions, concerns or issues, and as their representatives to receive notice under this MOU:

For DMV:

Matthew Martin
Director of Data and Records Services
Department of Motor Vehicles
(804) 763-8568
Matthew.Martin@dmv.virginia.gov
2300 West Broad Street
P.O. Box 27412
Richmond, Virginia 23269

For ELECTIONS:

Brandon Smith
Chief Information Officer
Department of Elections
(804) 971-3960
Brandon.Smith@elections.virginia.gov
1100 Bank Street, 1st Floor
Richmond, VA 23219

2.6 Notice. Any notice required or permitted to be given under the MOU shall be in writing and shall be deemed to have been sufficiently given if delivered in person, if provided by email to the person designated by each party to receive notice by email, or if deposited in the U.S. mail, postage prepaid, for mailing by first class, registered, certified mail, or overnight courier service addressed to the individual and at the address provided by each party. The parties may change the individual identified in the preceding section to receive notice or any of the contact information by giving the other party notice of such change in accordance with this provision. The parties agree that, should the designated person cease to be the appropriate representative, such party shall appoint a new contact and notify the other party within five (5) business days of the appointment.

2.7 Titles and Headings. Titles and headings are inserted for convenience only and shall not be used to interpret this MOU.

2.8 Governing Law. This MOU shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia and of the United States. If necessary, any disputes that arise out of the MOU shall be tried by a court of competent jurisdiction located in the Commonwealth of Virginia.

2.9 Modification of Data Fields and Services. Any addition, deletion, or significant modification of the fields included in any of the data exchanges subject to the provisions of this agreement, and any change to the frequency with which DMV sends the data to ELECTIONS, must be agreed upon in writing. The parties may amend this agreement to reflect a modification in accordance with Article 2.3 of this MOU or may attach the written documentation as an amendment to this MOU. After DMV and ELECTIONS agree, in writing, to any modification to data fields and services, DMV will develop, test, and implement software development lifecycle and change-control processes pursuant to DMV and COV policies. DMV is a pass-through for collecting customer information, and ELECTIONS is responsible for ensuring that the data received meets the agreed upon requirements in a timely manner in both test and production environments.

2.10 ELECTIONS Liability. ELECTIONS shall be liable for any misuse or misappropriation of any information obtained from DMV in connection with this MOU, any failure by ELECTIONS, its employees, agents, and/or authorized users to comply with the provisions of the Federal Driver's Privacy Protection Act, Va. Code §§ 46.2-208 and 58.1-3, and the Government Data Collection and Dissemination Practices Act, and for any failure to safeguard and limit access to DMV files as required herein.

2.11 DMV Liability. DMV shall be liable for any misuse or misappropriation of any information obtained from ELECTIONS in connection with this MOU, any failure by DMV, its employees, agents, and/or authorized users to comply with the provisions of the Federal Driver's Privacy Protection Act, Va. Code §§ 46.2-208 and 58.1-3, and the Government Data Collection and Dissemination Practices Act, and for any failure to safeguard and limit access to ELECTIONS files as required herein.

2.12 Notification of Material Changes to Services. Each party shall be required to notify the other of any planned material changes in the security or functionality of any dependent services with sufficient time for the parties to discuss any security/technical/functional considerations and/or changes.

Article 3 **Data Extraction File Transfers**

3.1 Provide Information. DMV agrees to provide ELECTIONS with the following data extractions:

- 1) Daily, DMV will provide to ELECTIONS an electronic file, which includes those customers for whom DMV recorded (1) a NO answer to the citizenship question posed for voter registration purposes or (2) legal presence documents indicating non-citizenship status during the business day. The NO answers will include customers who certify that they are not citizens in connection with an application for a driver or identification privilege card; however, in accordance with Code of Virginia §§ 46.2-328.3 and 46.2-345.3, DMV will not identify to ELECTIONS which customers hold privilege cards.
- 2) On or about the 10th day of each calendar month, DMV will provide to ELECTIONS an electronic file, which includes those customers for whom DMV recorded (1) an in-state or out-of-state address change or (2) an out-of-state surrender of license.
- 3) On or about the 10th day of each calendar month, DMV will provide ELECTIONS an electronic file, which includes data from each DMV customer record.

3.2 Data Format. DMV will provide ELECTIONS with the above-specified data using the file layout and transmission protocols determined and agreed to by information technology personnel of the two agencies; the file layout and transmission protocols may be revised and/or adjusted over time as the agencies' personnel deem appropriate without the necessity of a new MOU.

Such revisions or adjustments must be agreed upon in writing by both agencies. The written documentation will not become an amendment to this MOU unless requested by either party.

3.3 Costs. ELECTIONS will reimburse DMV for the costs of providing data in accordance with Article 3 of this MOU at the rate of \$600 per month. Using automated monthly billing, DMV will invoice ELECTIONS on a monthly basis following the successful and timely transmission of the data required by this MOU. ELECTIONS will remit the invoice fee in accordance with the standards set forth in the relevant CAPP topics.

Article 4
Transfer of Customer Data Pursuant to the
National Voter Registration Act

4.1 Purpose. Pursuant to the requirements of the National Voter Registration Act, 52 U.S.C. §§ 20501, et seq.; the Help America Vote Act of 2002, 52 U.S.C. §§ 20901, et seq.; and Title 24.2, Article 4, of the Code of Virginia, DMV provides customers conducting qualifying transactions the opportunity to apply to register or to update their voter information with ELECTIONS. DMV serves as a pass-through agency by collecting information from the customer and transferring the data to ELECTIONS, together with the identifying information from the customer's DMV record. This transfer of customer responses and customer record data is referred to as a "motor voter transaction." Customers present in a DMV customer service center will be presented with questions to complete the motor voter transaction on the credit card terminal located at the customer service window. Customers conducting online DMV transactions will be presented with questions to complete the motor voter transaction within their online DMV transaction.

Qualifying Transactions:

- Original Driver's License/Commercial Driver's License Issuance
- Driver's License/Commercial Driver's License Renewal
- Driver's License/Commercial Driver's License Replacement
- Original Identification Card Issuance
- Identification Card Renewal
- Identification Card Replacement
- Change of Address associated with Driver's License/Commercial Driver's License or Identification Card

Non-Qualifying Transactions:

- Driver Privilege Card Issuance or Replacement, pursuant to Code of Virginia § 46.2-328.3
- Identification Privilege Card Issuance or Replacement, pursuant to Code of Virginia § 46.2-345.3
- Change of Address for a customer who only owns a vehicle

4.3 All Customers. All customers will be informed that, if they are eligible, they will be registered to vote or have their voter registration information updated unless they decline. If the customer declines, the motor voter transaction will be concluded.

A. Application to Apply to Register to Vote

The customer will be asked if he or she is a citizen and will have the option to decline to have their information transmitted to ELECTIONS for voter registration purposes. If the customer does not decline to have their information transmitted and they have affirmed that they are a citizen, the customer will then be presented with a series of questions to collect the information needed to transmit the voter application to ELECTIONS. The language of the questions and the order in which the questions are presented for information needed to complete the voter application process are within ELECTIONS' discretion. The language of questions collecting information needed only for the DMV transaction is at DMV's discretion. The parties shall consult and attempt to agree on all language and workflow for the motor voter process. The language of the questions, including any translations thereof, presented in a motor voter transaction may be changed by written agreement of the parties without the need to amend this MOU.

B. Registered voters

Registered voters will be presented with one additional screen not seen by unregistered voters. The screen will display the customer's current voter registration information with ELECTIONS and state that, if the information is incorrect, it may be changed.

C. Non-consents

When the customer responds negatively to certain questions or prompts, the Registration Type is Non-Consent.

4.4 Transaction Confirmation. A confirmation record of each of the above-named transactions will be retained by DMV in accordance with established records retention policies.

4.5 Print-on-demand transactions. Customers who are unable or unwilling to complete the motor voter transaction on the credit card terminal available in a customer service center will be provided a print-on-demand form. DMV will prepopulate the form with the customer's information found on the DMV record. The customer will be given the opportunity to complete the form while present in the DMV and return the form to the DMV customer service representative. DMV will collect all forms and mail them on a daily basis to ELECTIONS.

4.6 Overnight batch. DMV offers customers the opportunity to change an address, renew or replace a driver's license, and renew or replace an identification card, by mailing a paper form to DMV headquarters. To comply with the requirement to offer a motor voter transaction to these customers, DMV will send a paper application prepopulated with the customer record information to the customer through an overnight batch process. Customers will be directed to return the form to ELECTIONS by mail.

4.7 Lack of social security number on DMV customer record. Prior to transmitting an electronic motor voter customer transaction, the DMV system will check the customer record to determine if the customer has a social security number on file. If the check determines no social security number is present, the motor voter transaction will be held until the end of the day, when the system will check the customer record a second time. If a social security number is present, the number will be transmitted with the customer record information and responses to the motor voter questions to ELECTIONS at that time. If the customer still does not have a social security number on file at the end of the day, the customer will be sent a paper application in accordance with the batch process in Article 4.6.

4.8 Data Retention. DMV will maintain all properties related to the submission of the customer transaction permanently. The data submitted pursuant to Articles 4.3 and 4.4 will be considered a copy once ELECTIONS has confirmed receipt and will be maintained by DMV only so long as administratively useful.

Article 5 **ELECTIONS' Access to Relevant DMV Information Systems**

5.1 Provide Access. DMV shall provide read-only access to relevant DMV information systems to authorized ELECTIONS users, as set forth in Article 5.2. Read-only access to relevant DMV information systems is intended to provide ELECTIONS with information to research voter registration and verify customer responses in relation to the voter registration process.

5.2 ELECTIONS Users. ELECTIONS will provide a log of all authorized users to relevant DMV information systems to DMV and keep the log updated with personnel changes. The parties will agree upon a schedule for adding or deleting authorized users as required to provide sufficient support for elections scheduled throughout the calendar year.

5.3 Operations Maintenance Windows. DMV will make every effort to ensure applicable systems and services are accessible; however, DMV systems and services may not be available during required, scheduled DMV or Commonwealth maintenance windows, including, but not limited to, the Virginia Information Technology Agency's Wednesday and Sunday evening windows.

5.4 Election-related Freeze Periods. DMV will make every effort to comply with the change freeze periods around scheduled elections. If DMV determines that a required change is critical to DMV security or operational requirements and must be made during a freeze period, DMV will take all necessary precautions to limit negative impacts to ELECTIONS' services and will notify ELECTIONS of any potential impacts prior to implementation, if feasible.

Article 6 **Digital Signature Service**

6.1 Purpose. ELECTIONS must obtain a customer signature to complete any electronic DMV or ELECTIONS' voting-related transaction initiated by the customer. Pursuant to Code of Virginia § 24.2-416.7, DMV shall provide ELECTIONS with a digital copy of an applicant's signature on record with DMV.

6.2 Information Provided by ELECTIONS. For each transaction conducted under Article 6, ELECTIONS sends applicable data to DMV.

6.3 Information Provided in Return to ELECTIONS. DMV provides applicable data in response to a customer submission from ELECTIONS conducted under Article 6:

6.4 Data Format. The above-specified data will be transferred using the transmission protocols determined and agreed to by information technology personnel of the two agencies; the transmission protocols may be revised and/or adjusted over time as the agencies' personnel deem appropriate without the necessity of a new MOU. Such revisions or adjustments must be agreed upon in writing by both agencies. The written documentation will not become an amendment to this MOU unless requested by either party.

Article 7 **Online Verification against DMV records**

7.1 Purpose. DMV will assist ELECTIONS in verifying the identity of customers seeking to register to vote by direct contact with ELECTIONS.

7.2 Information Provided by ELECTIONS. For each transaction, ELECTIONS sends the applicable data to DMV.

7.3 Information Provided in return to ELECTIONS. DMV will attempt to make an exact match to customer data on record. If an identical match is found, ELECTIONS will be notified that a match has been found. If the data is not an identical match to DMV data in any respect, ELECTIONS will be notified that an identical match has not been found.

7.4 Data Format. The above-specified data will be transferred using the transmission protocols determined and agreed to by information technology personnel of the two agencies; the transmission protocols may be revised and/or adjusted over time as the agencies' personnel deem appropriate without the necessity of a new MOU. Such revisions or adjustments must be agreed upon in writing by both agencies. The written documentation will not become an amendment to this MOU unless requested by either party.

Article 8
ELECTIONS' Responsibilities

8.1 Use of DMV information. ELECTIONS will use DMV information for the purposes of voter registration as required by Chapter 4 of Title 24.2 of the Code of Virginia. Except as provided in Va. Code §§ 24.2-404 and 24.2-444, ELECTIONS shall not make DMV information available to the public and shall not provide such information to any third party.

8.2 Confidentiality and Privacy of Information. ELECTIONS acknowledges and agrees that any information obtained pursuant to this MOU is considered personal and confidential and is subject to and governed by the restrictions upon access, use and/or dissemination of such information set forth in state and/or federal laws and regulations. ELECTIONS agrees, without reservation or qualification, that it and its employees, agents, and/or authorized users shall comply with and be subject to all applicable laws and regulations, whether federal or state, in connection with any receipt and use of DMV data received pursuant to this MOU including, but not limited to, (1) the Federal Drivers Privacy Protection Act (18 U.S.C. §§ 2721, et seq.), (2) the Government Data Collection and Dissemination Practices Act (Va. Code §§ 2.2-3800, et seq.), (3) the Virginia Computer Crimes Act (Va. Code §§ 18.2-152.1, et seq.), (4) the provisions of Va. Code §§ 46.2-208 and 58.1-3, and (5) any successor rules, regulations, or guidelines adopted by DMV with regard to disclosure or dissemination of any information obtained from DMV records or files. ELECTIONS agrees to comply with such restrictions and to make all employees, agents, and authorized users of ELECTIONS aware of such provision and of their duties and obligations thereunder.

8.3 Monitoring Use of Information. ELECTIONS agrees to monitor all use of the information obtained from DMV and to immediately report to DMV any incidents of non-compliance with federal or state laws and regulations, non-compliance with this MOU, or misuse of information provided under this MOU by any person or entity.

8.4 Limitation on Use. Distribution of privileged information, as described at Va. Code § 46.2-208, to any third party other than elections officials in order to carry out their official functions under Title 24.2 of the Code of Virginia is prohibited. ELECTIONS certifies, by execution of this MOU, that the information obtained under this MOU will not be used for civil immigration purposes or knowingly disseminated to any third party for any purpose related to civil immigration enforcement.

8.5 Antivirus and Security Patch Requirements. ELECTIONS understands and agrees that each electronic device used to access the DMV System must:

- a) Have commercially available Antivirus software installed and actively running on the device, and that the Antivirus software must be maintained with up-to-date virus definitions; and
- b) Have the latest approved operating system security patches installed on the device, and that the operating system must be maintained with up-to-date security patches.

8.6 Security Requirements. ELECTIONS shall, at its own expense, comply with and maintain compliance with all Commonwealth of Virginia IT security policies, standards, and guidelines, including any revisions, amendments, and/or successors thereto. ELECTIONS also shall, at its own expense, comply with and maintain compliance with the DMV IT Architecture and Security Documents, as may be amended from time to time.

Copies of the current Commonwealth of Virginia IT security policies, standards, and guidelines are available on the VITA Website at <http://www.vita.virginia.gov/library/default.aspx?id=537#securityPSGs>.

Copies of the most recent DMV IT Architecture and Security Documents are available on the DMV Website at <https://www.dmv.virginia.gov/sites/default/files/documents/DMV%20Security%20%26amp%3B%20Risk%20Management%20Policy%202.1.pdf>.

ELECTIONS will be responsible for reviewing these websites for revisions, updates and/or modifications at least once every six months.

8.7 Audit. DMV reserves the right to audit ELECTIONS to confirm compliance with all requirements in this MOU. ELECTIONS shall provide DMV with full access to and the opportunity to examine any electronic devices, records and/or other materials necessary to performing such audits, except any such records and/or other materials that are privileged or confidential. Similarly, ELECTIONS reserves the right to audit DMV to confirm compliance with all requirements in this MOU. DMV shall provide ELECTIONS with full access to and the opportunity to examine any electronic devices, records and/or other materials necessary to performing such audits, except any such records and/or other materials that are privileged or confidential.

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be duly executed by their authorized representatives intending to be bound by the terms and conditions herein set forth.

Virginia Department of Motor Vehicles

By: Gerald F. Lackey
Gerald F. Lackey, Ph.D., Commissioner

Date: September 3, 2024

Virginia Department of Elections

By: Susan Beals
Susan Beals, Commissioner

Date: Sept. 3, 2024